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LETTER DATED 25 APRIL 1997 FROM THE PERMANENT REPRESENTATIVE OF CROATIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to submit to you herewith a copy of the Agreement of the Joint Working Group on the Operational Procedures of Return, which provides for the Guiding Principles and specific mechanisms for a programme of return of Croatian citizens to their homes throughout Croatia that is voluntary, dignified and safe (see annex).

The Joint Working Group on Returns is composed of representatives from the Government of Croatia, the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) and the Office of the United Nations High Commissioner for Refugees (UNHCR).

The Agreement was ratified by the Government yesterday.

May I ask for your kind assistance in distributing the present letter and its annex as a document of the Security Council.

(Signed) Ivan ŠIMONOVIĆ
Ambassador
Permanent Representative

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Annex

Agreement of the Joint Working Group on the Operational Procedures of Return

BASIS OF THE WORKING GROUP

The Joint Working Group on Returns, composed of representatives of the Government of Croatia, UNTAES, and UNHCR was established pursuant to a decision of the Government of Croatia on 27 March following an agreement reached during the 21 March meeting of H.E. President Franjo Tudjman, UN Transitional Administrator Jacques Paul Klein, and UN High Commissioner Sadako Ogata and working level meetings on 13 and 14 March, 27 March, and 3 April.

THE WORKING GROUP MEMBERS ARE:

Croatian Government: Mr. Stjepan Sterc, Deputy Minister for Development and Reconstruction, Head of Delegation; Mr. Lovre Pejkovic, Head of the Office for Displaced Persons and Refugees; Mr. Neven Henigsberg, Office of the Deputy Prime Minister; Ms. Danica Damjanovic, Assistant to the Minister of Justice.

UNTAES: Mr. Gerard Fischer, Head of Civil Affairs, Head of Delegation; Mr. Goran Stigmer, Head of Civil Affairs Displaced Persons Task Force; Ms. Piper Campbell, Personal Assistant to the Head of Civil Affairs; Mr. Richard Holtzapple, Political Affairs.

UNHCR: Mr. Pierre Jambor, Chief of Mission, Croatia, Head of Delegation; Mr. Serge Ducasse, Deputy Chief of Mission, Croatia; Mr. Eduardo Arboleda, Chief of Operation, Slavonia; Mr. James Lynch, Head of Office Osijek; Mr. Indrika Ratwatte, Protection Officer, Zagreb.

GUIDING PRINCIPLES

The Working Group will establish the mechanisms to register and process all requests for return into and out of the Croatian Danube region; disseminate information on the return process; ensure proper operations; develop further mechanisms to address returnee issues, as necessary; and respond to issues arising from the return process which cannot be solved at lower levels.

The Government of Croatia shall provide equal access and equal treatment for safe return, reconstruction, and the other mechanisms specified below for all Croatian citizens who in 1991 resided in the Croatian Danube Region (herein after, the Region) or who are currently living there.

Until conditions are created, through the mechanisms described in this agreement, for Croatian citizens to move from the houses they are currently occupying, they may remain in such houses.

Additionally, the Government of Croatia will, with the cooperation of the international community, organize an agency for mediation in selling or exchanging property for legal owners who do not want to inhabit their property any more. The 'Land Bank' concept will be developed more fully by the aforementioned Working Group.

The Government of Croatia, UNTAES, and UNHCR will seek international funding for the implementation of the described mechanisms, as they are established.

MECHANISMS FOR THE RETURN OF CROATIAN CITIZENS TO THEIR HOMES

All Croatian citizens, with identification cards, displaced from their homes who want to return to their homes should register with the Office of Displaced Persons and Refugees (ODPR) as a first step in the return mechanism. ODPR will collect all necessary information on the forms agreed to by the Working Group. ODPR will submit to the Working Group on a weekly basis a report containing statistics and dates for: return requests received, "CONFIRMATIONS ON ARRANGEMENTS FOR RETURN" issued, and returns successfully completed. ODPR records of registration will be available to all members of the Working Group, upon request. For those who register with ODPR, depending on the condition of the potential returnee's property, the following procedures will apply:

FAMILY REUNION (to original family home):

1. ODPR will immediately contact the ODPR office in the area of return in order to verify the information provided by the potential returnee, and simultaneously will confirm with the Ministries of Justice and Interior that there are no outstanding charges against the individual.
2. ODPR will then issue a "CONFIRMATION ON ARRANGEMENTS FOR RETURN" to the potential returnee, with copies to: the Ministry of Interior (which will forward the information to the local police station), the Working Group members, and the municipal authorities.
3. ODPR will agree with the returnee on the modalities/logistics of return.
4. ODPR, assisted by UNTAES and UNHCR, will organize the return. Upon return, the individual will have legal status as a "returnee."

TRANSITIONAL MEASURES: Until the Joint Working Group agrees that ODPR and other relevant Croatian authorities are in a position to undertake all of the mechanisms described above for returns into the Region, the following procedures will apply:

1. ODPR will verify that the request for return is to an original family home in the Region.
2. ODPR will contact UNTAES (DP Task Force) which will verify the information provided by the potential returnee.
3. UNTAES will inform ODPR of the housing status, and notify the Transitional Police Force (TPF) and municipal authorities.
4. ODPR will issue a "CONFIRMATION ON ARRANGEMENTS FOR RETURN" to the potential returnee.
5. ODPR will agree with the returnee on the modalities/logistics of return.
6. ODPR, assisted by UNTAES and UNHCR, will organize the return. Upon return, the individual will have legal status as a "returnee".

In principle, the CONFIRMATION ON ARRANGEMENTS FOR RETURN will be issued within 15 calendar days of registration with ODPR, or ODPR notification of UNTAES (for returns into the Region). The return should take place as soon as possible thereafter. Where the CONFIRMATION cannot be issued within this timeframe, the Working Group will be informed so that alternative measures can be considered. When a home is vacated under these mechanisms, the responsible party (Government of Croatia or UNTAES) will ensure that the house is not then occupied by an individual other than the legal owner.

VACANT INHABITABLE HOMES

1. ODPR will forward the requests for return daily to the Ministry of Development and Reconstruction (MDR).
2. MDR will coordinate with the municipal or city Commission for Temporary Takeover and Use of Property. MDR and the municipal or city Commission will confirm that the house is vacant and inhabitable, and that conditions of security exist. In no case will the municipal or city Commission be authorized to assign a vacant home to another individual after notification from MDR is received. If the housing has been assigned but is not yet occupied, the housing assignment will be annulled.
3. MDR will inform ODPR of the housing status.
4. ODPR will then issue a "CONFIRMATION ON ARRANGEMENTS FOR RETURN" to the potential returnee, with copies to: the Ministry of Interior (which will forward the information to the local police station), the Working Group members, and the municipal authorities.
5. ODPR will agree with the potential returnee on the modalities/logistics of return.
6. ODPR, assisted by UNTAES and UNHCR, will organize the return. Upon return, the individual will have legal status as a "returnee".

TRANSITIONAL MEASURES: Until the Joint Working Group agrees that ODPR and other relevant Croatian authorities are in a position to undertake all of the mechanisms described above for returns into the Region, the following procedures will apply:

1. ODPR will verify ownership of the home in the Region, and will forward the requests for return daily to UNTAES.
2. UNTAES (DP Task Force) will confirm that the house is vacant and inhabitable, and that conditions of security exist. In no case will an individual other than the legal owner be allowed to occupy the house after UNTAES has confirmed that the house is vacant.
3. UNTAES will inform ODPR of the housing status, and notify TPF and the municipal or city authorities.
4. ODPR will issue a "CONFIRMATION ON ARRANGEMENTS FOR RETURN" to the potential returnee.
5. ODPR will agree with the potential returnee on the modalities/logistics of return.
6. ODPR, assisted by UNTAES and UNHCR, will organize the return. Upon return, the individual will have legal status as a "returnee".

In principle, the CONFIRMATION ON ARRANGEMENTS FOR RETURN will be issued within 15 calendar days of registration with ODPR, or ODPR notification of UNTAES (for returns into the Region). The return should take place as soon as possible thereafter. Where the CONFIRMATION cannot be issued within this timeframe, the Working Group will be informed so that alternative measures can be considered. When a home is vacated under these mechanisms, the responsible party (Government of Croatia or UNTAES) will ensure that the house is not then occupied by an individual other than the legal owner.

HOMES DAMAGED OR DESTROYED BY WAR*

*as defined by the Law on War Damage Assessments (narodne novine #61/91)

1. ODPR will forward the requests for return daily to the Ministry of Development and Reconstruction (MDR).
2. MDR will coordinate the work of the municipal or city Commission for Temporary Takeover and Use of Property in order to determine the status of the house.
3. MDR in cooperation with the County Commission for the Assessment of War Damages will determine the degree of damage to the house (categories 1 - 6.)
4. On the basis of the feedback on the status of the property, the potential returnee will complete a request for reconstruction at the ODPR sub-office where they registered. ODPR will forward the request to the County Office for Reconstruction and to MDR which will further proceed according to the Law on Reconstruction (NN #24/96, 54/96, and 87/96). Cases whose resolution will make possible the return of a DP to a home currently occupied by a Croatian citizen displaced from his or her home shall be treated as priority 3 under article 6 of the Law on Reconstruction. For the purposes of reconstruction and return, all cases of "returnees" also shall be treated as priority 3 under Article 6 of the Law on Reconstruction.
5. After the contract on reconstruction is signed, MDR or ODPR will offer the individual temporary accommodation in the nearest location to the home of origin until full realization of the individual's right to reconstruction. Alternatively, accommodations can be arranged privately (i.e., with friends or relatives) without losing the right to reconstruction.
6. When the municipal or city Commission or ODPR secures temporary accommodations for the potential returnee, a certificate will be issued giving the potential returnee the right to reside in the temporary accommodation. A returnee in possession of such a certificate cannot be asked to leave the temporary accommodation, unless the Government of Croatia provides the returnee alternative accommodation, or his/her home is repaired. (Note: If upon receiving such a certificate the potential returnee declines the offered temporary accommodation, the potential returnee loses the right to remain in the current accommodation. However, the right to reconstruction remains.)
7. MDR or ODPR will inform the Working Group of the status of the case.
8. ODPR will then issue a "CONFIRMATION ON ARRANGEMENTS FOR RETURN" which will specify that the returnee is moving to temporary accommodations, with copies to: the Ministry of Interior (which will forward the information to the local police station), the Working Group members, and the municipal authorities.
9. ODPR will agree with the potential returnee on the modalities/logistics of the move.
10. ODPR, assisted by UNTAES and UNHCR, will organize the move. Upon the move to temporary accommodations, the individual will have legal status as a "returnee".

(NOTE: There may be cases where an individual who has a damaged home, by virtue of having another house or apartment in the Republic of Croatia which has not been damaged by war and which is appropriate for living (i.e. vacant and inhabitable) cannot claim the right of reconstruction, as per Article 5 of the above-referenced Law on Reconstruction. In these cases, the appropriate mechanism for the return to or sale/exchange of that habitable home shall apply.)

TRANSITIONAL MEASURES: ***Until the Joint Working Group agrees that ODPR and other relevant Croatian authorities are in a position to undertake all of the mechanisms described above for returns into the Region, the following procedures will apply:***

1. ODPR will verify ownership of the home in the Region, and will forward the requests for return daily to UNTAES.
2. UNTAES (DP Task Force) will determine the status of the house and inform the Working Group members.
3. UNTAES will facilitate inspection by MDR and the County Commission for the Assessment of War Damages which will determine the degree of damage to the house (categories 1 - 6) and further proceed according to the Law on Reconstruction.
4. After the contract on reconstruction is signed, MDR or ODPR, assisted by UNTAES and UNHCR, will offer the individual temporary accommodation in the nearest location to the home of origin until full realization of the individual's right to reconstruction. Alternatively, accommodations can be arranged privately (i.e., with friends or relatives) without losing the right to reconstruction.
5. ODPR will issue a "CONFIRMATION ON ARRANGEMENTS FOR RETURN" to the potential returnee.
6. ODPR will agree with the potential returnee on the modalities/logistics of return.
7. ODPR, assisted by UNTAES and UNHCR, will organize the return. Upon return, the individual will have legal status as a "returnee".

(NOTE: There may be cases where an individual who has a damaged home, by virtue of having another house or apartment in the Republic of Croatia which has not been damaged by war and which is appropriate for living (i.e. vacant and inhabitable) cannot claim the right of reconstruction, as per Article 5 of the above-referenced Law on Reconstruction. In these cases, the appropriate mechanism for the return to or sale/exchange of that habitable home shall apply.)

These moves will take place in the shortest time possible, following registration with ODPR. When a home is vacated under these mechanisms, the responsible party (Government of Croatia or UNTAES) will ensure that the house is not then occupied by an individual other than the legal owner.

HOMES WHICH ARE BEING USED TEMPORARILY

1. ODPR will forward the requests for return daily to the Ministry of Development and Reconstruction (MDR).
2. MDR will coordinate the work of the municipal or city Commission for Temporary Takeover and Use of Property in order to establish that the home is occupied. The Commission will determine whether the house is occupied under the provisions of the Law on Temporary Takeover and Administration of Specified Property (NN #73/95), or not according with the Law.
3. MDR will inform ODPR about the status of the home.
4. MDR, in cooperation with the municipal or city Commission, will offer one of the following solutions to the individual via ODPR or the regional sub-office:
- (a) A certificate which specifies the date after which the owner will be able to take possession of his property, or
- (b). A certificate which will put at the disposal of the potential returnee a corresponding (in size and quality) accommodation close to the place of permanent residence for the period until his property is available for use. The certificate will specify the date after which the corresponding accommodation will be available.
5. In cases where it is not possible to immediately implement the certificate described in the above point, MDR or ODPR will offer the individual temporary accommodation in the nearest location to the home of origin until the date specified on the certificate. Alternatively, accommodations for the above period also can be arranged privately (i.e., with friends or relatives) without losing the right to return.
6. When the municipal or city Commission or ODPR secures corresponding or temporary accommodations for the potential returnee, a certificate will be issued giving the potential returnee the right to reside in the accommodation. A returnee in possession of such a certificate cannot be asked to leave the corresponding or temporary accommodation, unless the Government of Croatia provides the returnee alternative accommodation [corresponding or temporary, as the case applies], or he/she returns home. (Note: If upon receiving such a certificate the potential returnee declines the offered temporary or corresponding accommodation, the potential returnee loses the right to remain in the current accommodation. However, the right to return remains.)
7. MDR or ODPR will inform the Working Group of the status of the case.
8. ODPR will then issue a "CONFIRMATION ON ARRANGEMENTS FOR RETURN" which will specify that the returnee is moving to corresponding or temporary accommodations, with copies to: the Ministry of Interior (which will forward the information to the local police station), the Working Group members, and the municipal authorities.
9. ODPR will agree with the potential returnee on the modalities/logistics of the move.
10. ODPR, assisted by UNTAES and UNHCR, will organize the move. Upon the move to the temporary or corresponding accommodations, the individual will have legal status as a "returnee".

These moves will take place in the shortest time possible, following registration with ODPR. When a home is vacated under these mechanisms, the responsible party (Government of Croatia or UNTAES) will ensure that the house is not then occupied by an individual other than the legal owner.

GENERAL TRANSITIONAL MEASURES

1. For all cases of Croatian citizens, registered with ODPR, who wish to return but who are not covered by the above mechanisms, temporary accommodation will be offered by the Government of Croatia. The Working Group will resolve these on a case-by-case basis or develop other mechanisms as necessary consistent with the Guiding Principles.

2. The Working Group welcomes the suggestion to create an Agency for Mediation in the Traffic of Real Estate and a 'Land Bank' database of property and owners under the auspices of the Ministry for Reconstruction and Development. The Working Group notes that this Agency and Bank can play a crucial role in resolving cases falling outside the above described mechanisms for return through the arrangements of sale, exchange, and rental of property.

3. The Working Group will establish mechanisms for using the Agency and Land Bank, and will determine when the individuals using these mechanisms will move from the homes they currently occupy, after the Agency is established by the Government of the Republic of Croatia.

4. In cases where these mechanisms for return and legal remedies under Croatian law are exhausted, after a decision is made by the competent administrative and judicial bodies of the Republic of Croatia, a relevant procedure for relocating the individual to other accommodations will be undertaken by UNTAES in the Region. This transitional measure shall apply until such a time when the relevant Croatian authorities are in a position to undertake all of the mechanisms of return described in detail above.

In Osijek, 23 April 1997,
signing on behalf of the members of the Joint Working Group:

Mr. Stjepan Sterc,
Government of the Republic of Croatia

Mr. Gerard Fischer,
UNTAES

Mr. Eduardo Arboleda
UNHCR